

Paint Poisoning Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992.

§ 891.820 Mixed-finance proposal.

The mixed-finance owner must submit a mixed-finance proposal along with the firm commitment application. Each mixed-finance development proposal shall be in the form prescribed by HUD and must contain the following information:

(a) *Development description.* A description of the proposed project including: the number and types of units with bedroom count; the number of 202 or 811 units and the number of units to be financed from funds other than 202 or 811 funds; the types and amounts of non-dwelling space to be provided; schematic drawings and designs; the proposed building and unit plans including the location of the fixed UFAS accessible units and other units serving persons with disabilities dispersed within the project; and final plans and specifications.

(b) *Financing.* A detailed description of all financing necessary for the implementation of the proposal, specifying the sources, together with a 5-year operating performance projection, known as a “pro forma” (pro forma), for the development, including all underlying assumptions. In addition, the mixed-finance owner is required to submit to HUD for approval all documents relating to the financing of the proposal, including, but not limited to, any loan agreements, financing commitments, notes, mortgages, or deeds of trust, use restrictions, operating pro formas relating to the viability of the development, and other agreements or documents pertaining to the financing of the proposal. If tax credits are being used, the mixed-finance owner must submit official confirmation of the award of tax credits from the State allocating agency. Any financing commitments must be firm and irrevocable in order to be approved by HUD.

(c) *Sources and uses.* A statement of the sources and uses of financing; if a project is to be developed in phases, the sources and uses of financing for each phase;

(d) *Site information.* An identification and description of the proposed site, site plan, and neighborhood.

(e) *Development construction cost estimate.* A development construction cost estimate based on the schematic drawings and specifications and current construction costs prevailing in the area. In addition, a copy of the development schedule, including the architect or contractor estimate of the time required to complete each major development stage.

(f) *Life cycle analysis.* For mixed-finance projects with new construction or rehabilitation, the criteria to be used in equipping the proposed development with heating and cooling systems, which shall include a life-cycle cost analysis of the installation, maintenance, and operating costs of such systems.

(g) *Relocation plan.* Information concerning any displacement of current site occupants, including identification of each displacee, the distribution plan for notices, the anticipated cost and source for funding of relocation benefits, and compliance with 24 CFR 891.155(e).

(h) *Activities and relationship of participating parties.* Identification of: (1) The participating parties, together with full information as to any conflict-of-interest or identity-of-interest between any of the parties, including the general partner, limited partners, mixed-finance owner, Nonprofit Organization, 202 or 811 sponsors, and development team members;

(2) The activities to be undertaken by each of the participating parties; the legal and business relationships among the participating parties; and

(3) The rights and liabilities (financial and otherwise) and respective commitments of the parties with respect to the development;

(i) *Operating feasibility.* A demonstration of the operating feasibility of the development, which must be accomplished by:

(1) Showing that the estimated operating expenses of the development will not exceed its estimated operating income; and

(2) Submitting a 5-year operating pro forma for the development, and including all underlying assumptions and, if

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the project is a tax-credit project, a pro forma showing how the project will continue to operate for the required period after the end of the tax-credit period;

(j) *Market analysis.* An analysis of the projected market for the proposed mixed-finance development;

(k) *Management and occupancy policies.* A summary of the proposed management and occupancy policies to be implemented for the assisted units at the development, consistent with § 891.410, and a description of application and tenant selection procedures for the units without HUD funding;

(l) *Facilities.* A statement addressing the adequacy of existing facilities and services for the prospective occupants of the development and a description of public improvements needed to ensure the viability of the proposed development with a description of the sources of funds available to carry out such improvements;

(m) *Environmental review.* Any additional environmental information HUD deems necessary in completing its environmental review;

(n) *Certifications and assurances.* (1) Certificates and assurances that the mixed-finance owner has authority under State and local law to develop housing for elderly persons or persons with disabilities and to enter into all agreements and provide all assurances required under this subpart. In addition, the Nonprofit Organization must certify that it has the legal authority to enter into the partnership agreement under which it acts as the sole general partner with for-profit limited partners and to fulfill all its obligations as partner. The Nonprofit Organization must also certify that it has obtained all necessary approvals for this purpose. The mixed-finance owner will be responsible to HUD for ensuring that the 202 or 811 units are developed and operated in accordance with all applicable HUD requirements. The mixed-finance owner must also warrant that it will provide for a mechanism to assure, to HUD's satisfaction, that the 202 or 811 units will remain available for use by very low-income families for 40 years;

(2) A certification of the mixed-finance owner's previous participation as

stated in 24 CFR part 200, subpart H, and shall ensure that all participating parties submit a similar certification to HUD.

(o) *Other.* The mixed-finance owner must provide any other materials or information that HUD may from time to time require.

EFFECTIVE DATE NOTE: At 68 FR 67321, Dec. 1, 2003, § 891.820 was added. Paragraphs (a) through (e) and paragraphs (g) through (n) of this section contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 891.823 HUD review and approval.

HUD will review the firm commitment application and mixed-finance proposal as follows.

(a) *Initial screening.* HUD will perform an initial screening of the firm commitment application/mixed-finance proposal to determine that all required documentation and evidentiary materials have been submitted. HUD will advise the mixed-finance owner and Nonprofit Organization of any technical deficiencies in the application and proposal and indicate a date certain by which the remaining information must be submitted.

(b) *Firm commitment and proposal technical processing and approval.* Upon determining that the firm commitment and proposal are complete, HUD will process the firm commitment application and mixed-finance proposal for approval. The firm commitment application will be reviewed in accordance with applicable firm commitment and technical review guidelines. Upon determining that a proposal is acceptable for technical processing, HUD will evaluate the proposal to determine:

(1) Whether the mixed-finance owner has the legal capacity to enter into all necessary contracts and agreements to complete the development;

(2) Whether the proposed sources and uses of funds are eligible and reasonable, and show an appropriate proration of supportive housing funds and funds from other sources, and whether the project, including the market-rate units, is financially feasible and is projected to remain feasible for the 40-year term of the very low-income use